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PP RUEHWEB

DE RUEHKV #2012/01 2831356
ZNY CCCCC ZZH
P 091356Z OCT 08
FM AMEMBASSY KYIV
TO RUEHC/SECSTATE WASHDC PRIORITY 6505
INFO RUCNCIS/CIS COLLECTIVE
RUEHZG/NATO EU COLLECTIVE

C O N F I D E N T I A L KYIV 002012

SIPDIS

E.O. 12958: DECL: 10/09/2018

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SUBJECT: YUSHCHENKO DISSOLVES RADA, CALLS NEW ELECTIONS

Classified By: Ambassador William Taylor for reasons 1.4 (b,d).

Summary

1. (SBU) In a widely expected move, President Yushchenko on October 8 issued a decree dissolving the Rada and setting pre-term parliamentary elections for December 7. Contacts in Prime Minister Tymoshenko's BYuT party have told us they may attempt to block the decree in court, but are prepared to participate in the election. Regions and the Communists both came out in opposition of Yushchenko's decision, but indicated they also will participate. End Summary.

Yushchenko Pulls the Plug on the Rada

2. (U) On October 8, in a taped statement broadcast after his departure that day for a state visit to Italy, President Yushchenko announced a decree disbanding the Rada and setting pre-term parliamentary elections for December 7. Yushchenko's decree stated that the coalition ended on September 3, the day Rada Speaker Arseniy Yatsenyuk announced OU-PSD's decision to withdraw from the coalition. In his address, Yushchenko once again blamed BYuT for the collapse of the coalition, pointing to BYuT's votes with Regions in the current Rada session. Without naming her, Yushchenko cast the blame on PM Tymoshenko, saying that he was "absolutely certain" that the democratic coalition was destroyed because of the "personal ambition of one person." The Presidential Secretariat has denied rumors that Yushchenko taped the announcement prior to his meeting with Rada leaders on the morning of the 8th, ostensibly to consult one final time on ways to avert the dissolution of parliament.

Parties will Participate, but BYuT Won't Vote to Legitimize

3. (U) Reacting to Yushchenko's decree, Viktor Yanukovych said that Regions is against early elections, but will participate. Regions deputy faction head Borys Kolesnykov indicated that Regions would support legislation to fund the campaign; the Central Election Commission (CEC) has announced it needs about USD 83 million. BYuT MP and Deputy Rada Speaker Nikolay Tomenko reiterated BYuT's strong opposition to early elections, adding, however, that BYuT will run, and win. Tomenko added that BYuT would not vote to fund the election, saying that those who wanted this election should fund it "out of their own budgets and pockets." He challenged Yushchenko and others to explain to the Ukrainian people why they should pay 500 million hryvnya (about USD 100 million) out of the government budget during a financial crisis. BYuT Deputy faction head Andriy Portnov said BYuT will not vote for any legislation that would legitimize Yushchenko's decree.

4. (U) Communist Party faction leader Andriy Simonenko called early elections "political adventurism" and accused Yushchenko of attempting to create a "nationalist

dictatorship" in Ukraine. He noted, however, that his party would participate in the elections. Aleksandr Moroz, Socialist Party head, saw the elections as a chance for his party to reenter the Rada, and Kyiv Mayor Leonid Chernovetskiy said his bloc would participate in the election.

BYuT Weighing its Options

15. (C) BYuT has yet to officially respond to Yushchenko's decree. BYuT MP Valeriy Pisarenko said the faction would meet October 9 at 7:00 PM to discuss next steps. BYuT contacts have told us that they are considering a number of options to challenge the legitimacy of Yushchenko's decree in court, including:

- Article 90.4 of the constitution. Article 90.4 states that a Rada convened after pre-term elections may not be terminated "...within one year of its election." BYuT may claim that the Rada cannot be terminated before November 23, the date of the first session of the current Rada convocation, as until that date the previous Rada still had authority under Article 90.1 of the constitution.

- Article 90.2 of the constitution and Chapter 12, Article 65 of the Rada Rules. The Rada Rules require a 10-day waiting period between the announced intention of a faction to leave a coalition and the official termination of the coalition. Article 90.2 says that if a new coalition is not formed within 30 days after the termination of a coalition, the President may dissolve the Rada. BYuT may argue that Yushchenko's decree is not legitimate because he issued it prematurely after the termination of the coalition.

- OU-PSD's vote to leave the coalition was illegal. BYuT MP Ostap Semarak told us that BYuT has prepared papers to be filed with an administrative court in Kyiv challenging OU-PSD's September 2 vote to leave the coalition. BYuT may argue that the vote did not follow protocol, as nine of the 39 votes were made over the phone and not in person. OU-PSD MP Mykola Katerynychuk told us that BYuT could make their case, as Rada Rules stipulate that any votes should have been cast and recorded in person. Without those nine votes, OU-PSD would not have had a majority in favor of leaving the coalition.

Comment

16. (C) Yushchenko's decree was not unexpected, but broadcasting his decision while he was in Italy further underlined what many see as his detachment from political reality in Ukraine. His announcement signals the end of OU-PSD as a political bloc and it seems unlikely that these elections will strengthen his position in parliament. The decree does not end the ongoing political turmoil, but moves it to the next phase as parties jockey for position as Ukraine prepares for its third parliamentary election in three years.

TAYLOR